

Senate Bill No. 823

Passed the Senate May 6, 2009

Secretary of the Senate

Passed the Assembly June 22, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 2512, 2781, 2782, 3731, 3791.4, and 3793.1 of, and to amend and renumber Section 4839.2 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 823, Committee on Revenue and Taxation. Property taxation.

(1) Existing property tax law provides that a remittance to a taxing agency is deemed to be received, if made by an electronic payment, as specified, on the date the transaction was completed by the taxpayer.

This bill would require this remittance to be made, in order to be deemed received on the date the transaction was completed by the taxpayer, on the taxing agency's authorized Internet Web site or via the taxing agency's authorized telephone number.

(2) Existing law requires a county to return a replicated tax payment to the tendering party within 60 days following the receipt of the replicated payment. If that replicated payment is not returned to the tendering party within 60 days following the receipt of the replicated payment, the county is required to pay interest at a specified rate, for the period beginning 60 days after the county receives the replicated payment to the date the replicated payment is returned to the tendering party.

This bill would instead require a county to return a replicated payment to the tendering party within 60 days of the date the payment becomes final. This bill would also require the interest to be computed for the period beginning 60 days after the replicated payment becomes final to the date the replicated payment is returned to the tendering party.

(3) Existing law authorizes the board of supervisors, when it is determined that a tax deed to a purchaser of property sold by the tax collector should not have been sold, to rescind the sale with the written consent of the county legal adviser and the purchaser of the property.

This bill would authorize the successor in interest of the purchaser of the property to provide written consent to rescind the sale of the property. This bill would authorize the board of

supervisors, if the written consent of the purchaser of the property or a successor in interest is not obtained, to rescind the sale of the property, if a hearing is scheduled before the board of supervisors and a notice containing specified information is sent to the purchaser of the property or a successor in interest. This bill would provide that the purchaser or a successor in interest is entitled to a refund of the amount paid as the purchase price plus interest at the county pool apportioned rate, as provided, after rescission of the tax deed is recorded.

(4) Existing property tax law authorizes a nonprofit organization, with the approval or permission of either the board of supervisors or that board's designee, to purchase certain property that has been tax defaulted, as specified, and to purchase the property by way of installment payments. Existing law authorizes the tax collector, with the approval of either the board of supervisors or that board's designee, to offer certain property for sale at a minimum price that the tax collector deems appropriate.

This bill would eliminate the board designee's authorization to approve the purchase of tax-defaulted property by a nonprofit organization, or to permit the purchase of the property by way of installment payments. This bill would also eliminate the board designee's authorization to approve the tax collector's sale of certain property at a minimum price that the tax collector deems appropriate.

(5) Existing law requires the board of supervisors, upon receipt of a specified notice regarding a proposed sale of tax-defaulted property, to either approve or disapprove the proposed sale by resolution, and to transmit a certified copy of the resolution to the tax collector, as specified.

This bill would make a technical, nonsubstantive change to that provision.

The people of the State of California do enact as follows:

SECTION 1. Section 2512 of the Revenue and Taxation Code is amended to read:

2512. (a) If a remittance to cover a payment required by law to be made to a taxing agency prior to a specified date and hour is (a) deposited in the United States mail in a sealed envelope, properly addressed with the required postage prepaid, or (b)

deposited for shipment with an independent delivery service that is an Internal Revenue Service designated delivery service or has been approved by the tax collector, in a sealed envelope or package, properly addressed with the required fee prepaid, delivery of which shall not be later than 5 p.m. on the next business day after the effective delinquent date, the remittance shall be deemed received on the date shown by the post office cancellation mark stamped upon the envelope containing the remittance, or the independent delivery service shipment date shown on the packing slip or air bill attached to the outside of the envelope or package containing the remittance, or on the date it was mailed if proof satisfactory to the tax collector establishes that the mailing occurred on an earlier date. The taxing agency is not required to accept a payment actually received in the mail if it is received more than 30 days after the date and time set by law for the payment.

(b) If a remittance to cover a payment, required by law to be made to a taxing agency prior to a specified date and hour, is made by an electronic payment option, such as wire transfer, telephoned credit card, or electronic Internet means, the remittance shall be deemed received on the date the transaction was completed by the taxpayer, if the remittance was made on the taxing agency's authorized Internet Web site or via the taxing agency's authorized telephone number. Proof of completion of the transaction in the form of a confirmation number or other convincing evidence shall be presented by the taxpayer to the satisfaction of the tax collector. This subdivision does not apply to payments by electronic fund transfer as provided in Sections 2503.1 and 2503.2.

(c) This section does not, for purposes of applying subdivision (a) of Section 3707, apply to a remittance sent by mail, by independent delivery service, or by electronic payment option for the redemption of tax-defaulted property.

SEC. 2. Section 2781 of the Revenue and Taxation Code is amended to read:

2781. If a taxpayer or agent for the taxpayer submits a payment indicated for application to a specific tax or tax installment and that tax or tax installment already has been paid, the county shall return the replicated payment to the tendering party within 60 days of the date the payment becomes final. For purposes of this section, "final" means the original payment that is not subject to chargeback, dishonor, or reversal. However, when a replicated

payment is made of any tax or tax installment paid by a certificate of eligibility pursuant to Section 2514, the amount of the replicated payment shall be paid to the person shown on the certificate.

SEC. 3. Section 2782 of the Revenue and Taxation Code is amended to read:

2782. If a replicated tax payment is not returned to the tendering party within 60 days of becoming final, as provided in this chapter, the county shall, in addition to returning the replicated payment as soon as practicable, pay the tendering party interest, if that interest is ten dollars (\$10) or more, on the amount of replicated payment at the rate provided in Section 5151. The interest shall be computed for the period beginning 60 days after the replicated payment becomes final to the date the replicated payment is returned to the tendering party.

SEC. 4. Section 3731 of the Revenue and Taxation Code is amended to read:

3731. (a) When a tax deed to a purchaser of property sold by the tax collector pursuant to this part is recorded and it is determined that the property should not have been sold, the sale may be rescinded by the board of supervisors with the written consent of the county legal adviser and the purchaser of the property or a successor in interest in the property, except a bona fide purchaser for value, under any of the following circumstances:

(1) The property has not been transferred or conveyed by the purchaser at the tax sale to a bona fide purchaser for value.

(2) The property has not become subject to a bona fide encumbrance for value subsequent to the recordation of the tax deed.

(b) If the written consent of the purchaser of the property or a successor in interest is not obtained pursuant to subdivision (a), the sale may be rescinded by the board of supervisors pursuant to the circumstances specified in subdivision (a), if both of the following conditions are met:

(1) Notwithstanding Section 3731.1, a hearing is scheduled before the board of supervisors.

(2) (A) A notification is provided to the purchaser of the property or a successor in interest that contains all of the following information:

(i) The date, time, and place of the hearing.

(ii) A description of the property that was sold.

(iii) The reason for rescinding the sale of the property.

(iv) A statement that a refund will be issued to the purchaser of the property or the successor in interest, if applicable, for the purchase amount of the property plus interest at the county pool apportioned rate as specified in Section 5151 from the date of the purchase of the property.

(B) The tax collector shall send the notice, not less than 45 days prior to the date of the hearing, to the purchaser of the property or a successor in interest by certified mail with return receipt requested. The notice shall be sent to the last known mailing address of the purchaser of the property or a successor in interest.

(c) When the sale of tax-defaulted property is rescinded pursuant to this section, the purchaser or a successor in interest is entitled to a refund of the amount paid as the purchase price plus interest at the county pool apportioned rate as specified in Section 5151 from the date of the purchase of the property after rescission of the tax deed is recorded.

(d) The rescission shall be executed by the county tax collector and, if rescinded pursuant to subdivision (a), also by the purchaser or a successor in interest. The signature of both the county tax collector and the purchaser or a successor in interest shall be acknowledged by the county clerk, without charge, and the county tax collector shall then record the rescission with the county recorder, without charge. When the rescission is recorded, the tax deed becomes null and void as though never issued and all provisions of law relating to tax-defaulted property shall apply to the property.

(e) The holder of a tax certificate who received all or any part of the amount paid by the purchaser or a successor in interest shall not be obligated to make any refund or repayment of any amount to the purchaser, the delinquent taxpayer, the county, or any other person. The tax collector may use amounts on deposit in the Tax Certificate Redemption Fund to make the refund, but only to the extent those amounts were paid to the holder of the applicable tax certificate.

(f) Subdivision (b) shall apply to sales that are completed on or after January 1, 2010.

SEC. 5. Section 3791.4 of the Revenue and Taxation Code is amended to read:

3791.4. (a) When residential or vacant property has been tax defaulted for five years or more, or three years or more after the property has become tax defaulted and is subject to a nuisance abatement lien, that property may, with the approval of the board of supervisors of the county in which it is located, be purchased pursuant to this chapter by a nonprofit organization, provided that:

(1) In the case of residential property, the nonprofit organization shall rehabilitate and sell or rent to, or otherwise use the property to serve, low-income persons.

(2) In the case of vacant property, the nonprofit organization shall construct residential dwellings on the property and sell or rent the property to low-income persons, otherwise use the property to serve low-income persons, or dedicate the vacant property to public use.

(b) The terms and conditions of any conveyance to a nonprofit corporation pursuant to this section shall be specified in the deed or other instrument of conveyance.

SEC. 6. Section 3793.1 of the Revenue and Taxation Code is amended to read:

3793.1. (a) The sales price of any property sold under this article shall include, at a minimum, the amounts of all of the following:

(1) All defaulted taxes and assessments, and all associated penalties and costs.

(2) Redemption penalties and fees incurred through the month of the sale.

(3) All costs of the sale.

(b) If the property or property interests have been offered for sale under the provisions of Chapter 7 (commencing with Section 3691) at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that property or those interests at a minimum price that the tax collector deems appropriate.

(c) The board of supervisors may permit a nonprofit organization to purchase property or property interests by way of installment payments.

SEC. 7. Section 4839.2 of the Revenue and Taxation Code is amended and renumbered to read:

3699. On receipt of the notice described in Section 3698, the board of supervisors shall by resolution either approve or disapprove the proposed sale and shall transmit a certified copy of the resolution to the tax collector within five days after its action. Failure to adopt or to transmit the resolution within the prescribed times shall not affect the validity of a sale approved by a board of supervisors.

Approved _____, 2009

Governor